

**BEFORE THE APPEALS BOARD  
FOR THE  
KANSAS DIVISION OF WORKERS COMPENSATION**

<b>MARTIN PORTILLO</b>	)	
Claimant	)	
VS.	)	
	)	Docket No. 220,294
<b>CARL COLE MASONRY</b>	)	
Respondent	)	
AND	)	
	)	
<b>(UNKNOWN)</b>	)	
Insurance Carrier	)	
AND	)	
	)	
<b>KANSAS WORKERS COMPENSATION FUND</b>	)	

**ORDER**

The Kansas Workers Compensation Fund (Fund) seeks review of the ruling or order by Administrative Law Judge John D. Clark which is contained in the transcript of the January 12, 1999 motion hearing.

**ISSUES**

As a result of the hearing on January 12, 1999, the Administrative Law Judge granted claimant's request to reopen the record and extend terminal dates. The Fund appeals and contends the Administrative Law Judge erred and exceeded his jurisdiction in granting claimant's request to extend his terminal date and, thereby, reopening the record to allow the claimant to present additional evidence, which claimant characterized as rebuttal testimony.

Before the Board can consider the merits of the Administrative Law Judge's order, it must first determine whether or not it has jurisdiction of the matter at this juncture of the proceeding. The only issue before the Board on this appeal, therefore, is:

Does the Board have the jurisdiction to review this interlocutory order?

**FINDINGS OF FACT AND CONCLUSIONS OF LAW**

After a review of the file and the arguments presented by the parties to the Administrative Law Judge at the motion hearing and in their briefs to the Board, the Board finds and concludes that it does not have jurisdiction to review the order.

The Administrative Law Judge's order granting claimant's request for an extension of his terminal date was made during the litigation of this workers compensation case and is interlocutory in nature. The Fund's objection and appeal of the Administrative Law Judge's order is premature. It is not a final order that can be reviewed pursuant to K.S.A. 1998 Supp. 44-551. That statute limits the Board's jurisdiction to review of "final orders." It does not grant authority to review interlocutory orders. Furthermore, the order does not concern an issue that came before the Administrative Law Judge pursuant to the preliminary hearing statute, K.S.A. 1998 Supp. 44-534a, as preliminary hearing orders are limited to issues concerning the furnishing of medical treatment and the payment of temporary total disability compensation.

The order before the Board pertains to an interlocutory matter over which the administrative law judge has authority to adjudicate if called upon during a workers compensation proceeding. As such, it is not an order which the Board can review at this stage of the proceedings.

**WHEREFORE**, it is the finding, decision, and order of the Appeals Board that the Application for Board of Appeals Review and Docketing Statement filed by the Kansas Workers Compensation Fund should be, and is hereby, dismissed.

**IT IS SO ORDERED.**

Dated this \_\_\_\_ day of April 1999.

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BOARD MEMBER

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BOARD MEMBER

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BOARD MEMBER

c: Diane F. Barger, Wichita, KS  
Douglas D. Johnson, Wichita, KS  
Christopher J. McCurdy, Wichita, KS  
John D. Clark, Administrative Law Judge  
Philip S. Harness, Director